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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	)	CC Docket No. 01-338
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	

REPLY COMMENTS OF LSSi CORP.

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REPLY COMMENTS OF LSSi CORP.

LSSi Corp. ("LSSi", formerly Listing Services Solutions, Inc.), by its attorneys, respectfully submits these reply comments pursuant to the Commission's *UNE Triennial Review* Notice of Proposed Rulemaking in the above-referenced proceeding, released on December 20, 2001.[1]

INTRODUCTION

LSSi is a leading provider of national and international directory assistance ("DA"), call completion and branding services. LSSi builds, markets and supports advanced national and international directory database solutions for directory assistance service providers and corporate clients. LSSi accesses, compiles, supplements and maintains database information obtained from

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[1] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Notice of Proposed Rulemaking (rel. Dec. 20, 2001) ("*Triennial Review NPRM*").

local telecommunications carriers. LSSi distinguishes its services through the use of a timely, accurate and complete national DA database. Indeed, the LSSi database is the only independent national directory database in the world that is updated each business day with electronic feeds that capture all service order additions, deletions and changes made the previous day by LSSi data suppliers. LSSi obtains such data from incumbent LECs. LSSi has also recently begun to offer competitive services on the Internet, as well as online caller identification services. LSSi's unique consumer-focused services depend upon nondiscriminatory access to DA listings and unbundled access to incumbent LEC call-related databases, such as LIDB and CNAM.

In order to provide its innovative directory assistance and call-related services, LSSi has entered into numerous agreements to acquire access to DA and call-related databases, including LIDB and CNAM, with incumbent LECs. While LSSi has achieved some success in accessing these databases, it has not always enjoyed guaranteed access to listing and call-related information at prices and on terms that are consistent with the Telecommunications Act of 1996 and the Commission's rules.[2] For example, incumbents continue to impose restrictions on LSSi's use of DA listing information despite the Commission's unequivocal statement in the *DA First Report and Order* that such restrictions are prohibited: "Once carriers or their agents obtain access to a LEC's DA database, they may use the information as they wish, as long as they comply with applicable provisions of the Act and our rules."[3] With regard to call-related databases, LSSi receives discriminatory treatment in terms of its access to information contained

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[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. §§ 151 *et seq.* ("1996 Act" or "Act").

[3] *In the Matter of Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, FCC 01-27, CC Docket No. 99-273, First Report and Order (rel. Jan. 23, 2001) ¶28 ("*DA First Report and Order*").

in the incumbents' LIDB and CNAM databases. Such restrictions are contrary to the provisions of the 1996 Act and the Commission's rules; more importantly, the resulting discrimination harms competition where it prevents LSSi from competing effectively with incumbents to bring innovative directory assistance and database-related services to consumers.

It is essential that LSSi have the ability to access and utilize both DA listing and call-related database information on fair, reasonable and nondiscriminatory terms. Fortunately, the Commission's review of existing unbundled network elements ("UNEs") occurs at a critical juncture in the continued development of the directory assistance and directory publishing markets. Several fundamental industry changes are underway that will shape the choices consumers will have for directory assistance and directory publishing; such changes include wireless and wireline number portability, the convergence of directory assistance and directory publishing, and the telecommunications industry's increased consolidation and move toward bundled services. The Commission's rules governing incumbent provision of access to directory assistance and call-related databases will directly impact the industry's ability to adapt to customer needs.

To promote the continued development of meaningful competition in directory assistance and call-related services, LSSi urges the Commission address the following issues:

- Competitors are currently impaired in the provision of directory assistance services. The lack of customized routing by incumbents, the Commission's explicit prerequisite to the removal of OS/DA from the list of UNEs, and the continued consolidation of the industry, severely impair competitors' efforts to obtain the data necessary to provide competitive directory assistance services. The Commission should recognize these facts and return operator services and directory assistance to the list of UNEs;

- Incumbents' obligations with regard to OS/DA and call-related databases are ongoing and require those databases to be periodically resynchronized to ensure

accuracy. At present, incumbents charge LSSi for periodic resynchronization of the DA database. Incumbents face no such charges for maintenance of their own databases. Thus, incumbents enjoy a costless advantage over LSSi and other competitors in the provision of directory assistance services;

- Competitors must enjoy the same usage rights enjoyed by ILECs once directory assistance information is obtained. Incumbents continue to attempt to impose DA data usage restrictions on LSSi, despite the Commission's unequivocal statements to the contrary in the *DA First Report and Order*;

- Competitors would be severely impaired without access to call-related databases and associated signaling. The nature and use of these databases is national in scope and, accordingly, no geographic or service-specific limitations on access are warranted. As a result, these essential elements should be retained on the list of UNEs under section 251(d)(2); and

- Competitors must enjoy full and complete nondiscriminatory access to incumbent call-related databases in order to compete in the provision of call-related services. LSSi does not have, but must obtain, nondiscriminatory access to provider and billing name data contained in the LIDB and CNAM databases.

DISCUSSION

I. LSSi Agrees With Commenters That The Commission Should Re-Establish Unbundled Access To OS/DA Under Section 251(d)(2) Of The 1996 Act.

A number of commenters discuss the continuing need for unbundled access to OS/DA.[4] OS/DA was initially unbundled by the Commission in the *Local Competition Order*, which concluded that "unbundling both the facilities and functionalities providing operator services and directory assistance as separate network elements will be beneficial to competition and will aid in the ability of competing providers to differentiate their service from the incumbent LECs."[5]

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[4] ALTS Comments at 90-95; UNE-P Platform Coalition Comments at 55-59; Public Utilities Commission of Texas Reply Comments at 17-18.

[5] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 ¶536 (1996) ("*Local Competition Order*"), aff'd in part and vacated in part sub nom., *Competitive Telecommunications Ass'n v. FCC*, 117

As noted by ALTS, the Supreme Court affirmed this designation as "eminently reasonable."[6] The Commission reversed course in the *UNE Remand Order*, removing OS/DA from the list of UNEs because "where incumbent LECs provide customized routing, lack of access to the incumbents' OS/DA service on an unbundled basis does not materially diminish a requesting carrier's ability to offer telecommunications service."[7]

LSSi agrees with those commenters that point out that the condition precedent established by the Commission never fully-materialized.[8] Specifically, incumbents did not establish and have not established customized routing to efficiently enable competitive carriers to obtain services from alternative OS/DA providers. As a result, competitive carriers are forced to choose between paying inflated, market-based rates for OS/DA from the incumbent or paying for dedicated transport between dispersed call centers and alternative OS/DA providers. The result is that competitors, and especially UNE-P providers, are impaired in providing OS/DA services to their customers. For these reasons, the Texas PUC requires incumbents to continue to offer unbundled access to OS/DA: "The UNE Remand Order requires ILECs to unbundle their OS/DA services, unless the ILEC provides customized routing to a requesting carrier to allow it to route

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F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), aff'd in part and remanded, *AT&T v. Iowa Utils. Bd.*, 119 S.Ct. 721 (1999); 47 C.F.R. §51.311(b).

[6] ALTS Comments at 91 (*quoting AT&T Corp. et. al. v. Iowa Utilities Bd. et. al.*, 119 S.Ct. 721, 733-34 (1999)).

[7] *Implementation of the Local Competition Provisions of the Telecommunications Act*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 ¶411 (1999) ("*UNE Remand Order*").

[8] ALTS Comments at 93-94; UNE-P Platform Coalition Comments at 55-56.

traffic to alternative OS/DA providers ... [T]o the extent ILECs have not accommodated technologies for customized routing, they must offer OS/DA as a UNE."[9]

The Commission should likewise recognize that competitors are currently impaired in the provision of OS/DA services. No incumbent has provided customized routing in accordance with the requirements of the *UNE Remand Order*. Moreover, the competitive landscape has changed significantly since the release of the *UNE Remand Order*, with acquisitions and bankruptcies resulting in a smaller number of competitors and a decrease in overall market capitalization.[10] As a result, competitive carrier choices of alternative OS/DA services have become severely limited, and the competition that prompted the Commission to de-list OS/DA has all but disappeared. For these reasons, the Commission should re-establish OS/DA as a UNE under section 251(d)(2) of the 1996 Act.

II. The Commission Should Clarify That Nondiscriminatory Provision Of Database Information Is An Ongoing Obligation.

The Commission should also clarify that incumbents have a *continuing* obligation to provide nondiscriminatory access to DA listing and call-related database information. When competitors purchase initial loads and daily updates for directory assistance and other call-related databases, these updates are designed to allow them to maintain the integrity of the databases, giving them information access at parity with the incumbents.[11] Unfortunately, LSSi's long

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[9] *Petition of MCIMetro Access Transmission Services, LLC, et al. for Arbitration with Southwestern Bell Telephone Company Under the Telecommunications Act of 1996*, Arbitration Award, PUC Docket No. 24542 at 163 (rel. Apr. 29, 2002) ("*Texas Arbitration*").

[10] *See Texas Arbitration* at 166.

[11] As the Texas PUC has correctly ascertained, incumbents should be responsible for the integrity of their call-related databases over time. *See* Public Utility Commission of Texas at 17-18.

experience has shown that, despite the best efforts of both parties, a competitor's database that is maintained by updates alone becomes skewed over time. Thus, as time passes, the incumbents enjoy greater accuracy and ubiquity for call-related database information. A competitor that requests the ability to ensure the integrity of its database through a comparison with that maintained by the ILEC often faces additional charges, usually at the rate that is charged for the initial load of data.[12] As a result, incumbents retain an unfair, costless, and discriminatory advantage over competitors. In order to ensure that the nondiscriminatory goals of the 1996 Act are served,[13] the Commission should require incumbents to annually resynchronize competitors' databases for a nondiscriminatory and *de minimis* administrative fee.

In LSSi's experience, over time competitors' databases inherently become corrupted when using incumbent updates as the exclusive vehicle to maintain those databases. Because daily updates are insufficient, incumbents possess an unfair and costless advantage over competitors (in that their databases remain current, while competitors' databases become distorted) that increases as time passes. More importantly, while incumbents retain this advantage at no additional cost, they often force competitors to repurchase the database information at full cost, regardless of the fact that competitors seek simply to ensure the accuracy of the information that they have already purchased. This practice constitutes discriminatory treatment in contravention of the 1996 Act and must be addressed by the Commission.

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[12] As a general rule, incumbents charge the same rate for initial loads as for resynchronization where the database disparity is unrelated to incumbent error. At least one incumbent has indicated that a discount would apply to resynchronization loads.

[13] 47 U.S.C. §251(b)(3).

The incumbents' obligation to provide nondiscriminatory access to call-related databases is ongoing. Several incumbents disadvantage competitors and attempt to obtain an unfair advantage over them by either refusing to resynchronize databases or charging substantial fees. Thus, the Commission should intervene and require incumbents to annually resynchronize competitors' databases for a small, fair administrative fee. Such action is entirely supported by the nondiscrimination provisions of the 1996 Act and the Commission's rules.

III. The Commission Must Ensure That ILECs Do Not Discriminate Through The Imposition Of Usage Restrictions On DA Listings Data.

In the *DA First Report and Order*, the Commission unequivocally determined that "[o]nce carriers or their agents obtain access to the DA database, they may use the information as they wish, as long as they comply with the applicable provisions of the Act and our rules."[14] Despite the Commission's clear determination, LSSi continues to face incumbent-imposed usage restrictions on its use of DA listings data. Some, but not all, incumbents persist in restricting LSSi's use of DA listings data to provide specific competitive services, including directory publishing and DA-related online services. Certain incumbents explicitly prohibit the use of DA listings data to provide such services, while others require LSSi to pay increased rates for the same DA listings. These incumbent-imposed usage restrictions either foreclose competition altogether or impose additional costs on LSSi that are not born by the incumbent. As such, LSSi receives discriminatory treatment in violation of section 251(b)(3) of the Act. Moreover, the

[14] *DA First Report and Order* ¶28.

incumbents' discriminatory pricing violates section 51.503 of the Commission's rules by varying rates charged based upon the class of customers served by LSSi.[15]

LSSi obtains DA listing data from the incumbents under section 251(b)(3) of the 1996 Act. Section 251(b)(3) provides that "[e]ach local carrier [must] permit all [telephone exchange and telephone toll service] providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing[.]"[16] The Commission has repeatedly affirmed that nondiscriminatory access means at rates, terms and conditions that are at least equal to those that the incumbent provides to itself or its affiliate.[17]

The incumbents incur certain expenses in aggregating and maintaining DA listings data. The rates that the incumbents charge for DA listings data are designed to recover such costs. LSSi, among others, is subject to such rates. However, where LSSi has inquired about the use of DA listings for directory publishing, certain incumbents have prohibited such use, while others have indicated that LSSi would have to pay higher directory publishing rates.[18] The latter have not indicated that the information received by LSSi would be added to or improved in any way. As a result, those incumbents propose to discriminate between the rates that they enjoy for DA

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[15] 47 U.S.C. §51.503(c).

[16] 47 U.S.C. §251(b)(3).

[17] 47 C.F.R. §51.217(a)(2)(i); *see, e.g., Local Competition Order* ¶ 312; 47 C.F.R. §51.311(b).

[18] SBC and Qwest permit the use of DA information for Internet directory publishing. Verizon imposes additional fees for the use of DA information for Internet directory publishing. BellSouth prohibits the use of DA information for Internet directory publishing.

listings data and the rates that are charged to competitors, including LSSi. Such discriminatory treatment results in over-recovery of costs and is prohibited by section 251(b)(3) of the Act.[19]

Moreover, such discriminatory pricing runs afoul of the Commission's rules. Specifically, Rule 51.503 states, "[t]he rates that an incumbent LEC assesses for elements shall not vary on the basis of the class of customers served by the requesting carrier, or on the type of services that the requesting carrier purchasing such elements uses them to provide."[20] In this case, certain incumbents propose to charge DA providers one rate for DA listings data if they use such data for directory assistance and another (higher) rate for DA listings data if they use such data for directory publishing. This practice is clearly prohibited, and the Commission should take immediate steps to stop such blatant disregard for its rules.

The Commission should reiterate its position on DA listings data usage restrictions. Specifically, the Commission should state in unequivocal terms that incumbents are not permitted to discriminate between themselves and their competitors by charging prices that vary based upon the use to which DA listings data will be put. The Commission should further clarify that all call-related database data, including DA, LIDB and CNAM, may be used by competitors for any lawful purpose, including directory publishing and the provision of competitive online services.

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[19] The Commission has rejected rules that would result in precisely this type of over-recovery in the past. *See DA First Report and Order* ¶ 28, n. 75.

[20] 47 C.F.R. §51.503(c).

IV. LSSi Agrees With Commenters That The Commission Should Retain Unbundled Access To Call-Related Databases And Signaling Networks.

In the initial round of comments, many parties urged the Commission to retain the requirement of unbundled access to call-related databases and signaling networks.[21] LSSi agrees. LSSi's competitive DA offering represents a lasting success of the 1996 Act. LSSi has developed and deployed innovative services to collect, aggregate, supplement, maintain and provide access to directory assistance information that was formerly the exclusive domain of the incumbents. Information updates delivered by each of the incumbents, and processed by LSSi daily, keep LSSi's unique national database accurate. The more rapidly these updates are provided, the greater the accuracy of the LSSi offerings available to consumers.

Competitors will only have truly nondiscriminatory access to call-related database information with instantaneous notification and updating of their respective databases. At present, however, the nearest reasonable approximation is the Commission-mandated availability of call-related databases and signaling at cost-based rates under section 251(d)(2) of the 1996 Act. Cross-referencing DA listings with subscriber information contained in call-related databases, including CNAM and LIDB, allows LSSi to maintain high degrees of accuracy and completeness.[22] LSSi's ability to compete effectively in DA and call-related services markets depends directly upon continued nondiscriminatory access to such databases. Access is obtained

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[21] AT&T Comments at 239-251; Texas PUC Reply Comments at 17-18; WorldCom Comments at 10-12, 53-58, 122-123.

[22] Call-related databases, including LIDB and CNAM, contain subscriber information similar to that contained in the incumbents' DA databases. LSSi maintains the accuracy of its national DA database by cross-referencing the information contained therein with information contained in the CNAM and LIDB databases, thereby obtaining the most accurate and up to date information available.

only through use of the incumbents' signaling networks, which likewise must remain on the list of UNEs.[23]

Since 1996, in the *Local Competition Order*, the Commission consistently recognized that "a competitor's ability to provide service would be significantly impaired if it did not have unbundled access to incumbent LECs' call-related databases[.]"[24] These conclusions were reiterated by the Commission in the *UNE Remand Order*: "we are persuaded that there are no alternatives of comparable quality and ubiquity available to requesting carriers, as a practical, economic, and operational matter, for the incumbent LECs' call-related databases."[25] In making these determinations, the Commission recognized the value of ubiquity and accuracy in the varied uses of call-related database information.

Incumbents are the point of first contact for additions, deletions and modifications to call-related databases in nearly every instance; competitors are informed of such modifications only through periodic database updates provided by the incumbent. Direct and nondiscriminatory access to call-related databases is a prerequisite to effective competition in call-related services from companies like LSSi, because it enables LSSi to continuously update and monitor the accuracy of its database and eliminates the delay of periodic feeds from the incumbent. Only such access places competitors on an even footing with the ILECs.

The Commission's previous conclusions remain valid today. While several incumbents argue that access to ILEC and non-ILEC databases is currently available from competitive

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[23] *UNE Remand Order* ¶ 411; WorldCom Comments at 122 (citing Ku Declaration at ¶6).

[24] *Local Competition Order* ¶ 536.

[25] *UNE Remand Order* ¶ 410.

providers,[26] incumbents continue to serve an overwhelming 91% of switched local exchange subscribers across the United States.[27] Thus, their arguments sidestep the underlying fact that the database data always originates with the incumbent and exists as a direct result of unbundled access to ILEC call-related databases provided under section 251(d)(2). Accordingly, eliminating unbundled access would jeopardize or eliminate the derivative DA databases that depend on such access. Competitors like LSSi would face the difficult choice of purchasing call-related database access from the incumbent at inflated prices or obtaining such information third-hand (and also at inflated prices) from a third-party database distributor. Competing with incumbents on such disparate terms would place many of LSSi's innovative offerings at a significant competitive disadvantage. Moreover, such discriminatory access would contradict the aims of the 1996 Act.

A. The Commission should not analyze unbundling of call-related databases on a geographic, service or customer-related basis.

The Commission should not restrict unbundled access to call-related databases on geographic, service or customer-related bases because access to such databases, and related signaling, is national in nature.[28] Furthermore, because each ILEC has, and will continue to have, unrivaled access to call-related database information, the same impairment analysis applies to each and every geographic region of the country. Moreover, uniform nationwide unbundling

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[26] Verizon Comments at 136; Sprint Comments at 50-51.

[27] "Federal Communications Commission Releases Data on Local Telephone Competition," FCC Press Release (rel. Feb. 27, 2002).

[28] *See Triennial Review NPRM* ¶65. The D.C. Circuit's recent decision in *United States Telecom Association, et al., v. FCC*, No. 00-1012 (D. C. Cir. May 24, 2002), should not be read to require an examination of competition in discrete geographic markets for call-related databases, associated signaling and OS/DA. The Commission should find that the incumbents' advantages, and competitors' resulting impairment, in such areas apply equally to every geographic region of the nation. *See USTA v. FCC*, No. 00-1012, FCC Petition for Rehearing or Rehearing *en banc* at 11-13 (D.C. Cir. July 8, 2002).

of database information permits competitors to provide nationwide directory assistance and related services. LSSi has thus far succeeded in provisioning such services, but it continually faces obstacles created by the incumbents. Market by market access rules, as opposed to national, uniform requirements, would create further opportunities for ILECs to discriminate against competitors. In short, continued complete nationwide access to the incumbents' call-related databases is required to bolster competition in call-related services and promote the nondiscrimination requirements of the 1996 Act.

One of the major benefits of the 1996 Act has been the proliferation of national call-related services, including caller identification. LSSi's WhoDA® CNAM Service is just one example of an innovative competitive service that is superior to CNAM services previously and actually offered by the incumbents. Such services were made possible by the national unbundling rules for call-related databases promulgated by the Commission in the *Local Competition Order* and the *UNE Remand Order*. Those orders recognized the fundamental nature of call-related databases as information under the exclusive control of the incumbents, to which competitors may obtain secondary access only through mandated unbundling. This analysis does not vary by ILEC or geographic location. Or more precisely, in every geographic region or market the ILEC retains exclusive control over these databases. As a result, the Commission mandated national unbundling rules for call-related databases and associated signaling.

Nothing has changed to affect this analysis. Incumbents continue to serve the vast majority of subscribers and competitors remain wholly-dependent on access to these databases in order to compete. Because, in every geographic jurisdiction throughout the nation, competitors

enjoy only derivative access to call-related database information, the Commission should continue to require nationwide unbundled access to call-related databases.

B. The Commission Should Reiterate Incumbents' Nondiscriminatory Access Obligations With Regard To Call-Related Databases.

The Commission should take this opportunity to address specific instances in which incumbents are currently failing to meet their unbundling obligations for call-related databases.[29] The 1996 Act requires that incumbents provide competitors with "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable and nondiscriminatory[.]"[30] The Commission has firmly established that, "where technically feasible, the access and unbundled network element provided by an incumbent LEC must be at least equal-in-quality to that with the incumbent LEC provides to itself."[31] Incumbents are currently in contravention of the Commission's rules where they discriminate between themselves and their competitors in call-related database access. In order to end such discriminatory treatment and encourage competition in call-related database services, the Commission should clarify that provider and billing name information, currently available to incumbents in the LIDB and CNAM databases respectively, must be made immediately available to competitors.

The incumbents' LIDB databases contain essential information on each subscriber's chosen local exchange provider. This information assists incumbents in identifying the carriers

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[29] LSSi agrees with WorldCom that ILEC-imposed usage restrictions are both illegal and antithetical to the development and maintenance of competition. WorldCom Comments at 53-58.

[30] 47 U.S.C. §251(c)(3).

[31] *Local Competition Order* ¶ 312.

contained in their databases and resolving certain billing disputes by allowing them to expeditiously contact the relevant local exchange carrier for dispute resolution. Despite the Commission's clear statements regarding nondiscriminatory access to call-related databases, including LIDB,[32] incumbents currently deny competitors access to this crucial information. Without such data, competitors cannot efficiently meet customer needs or resolve billing disputes. Moreover, competitors, like LSSi, cannot determine which competitive provider listings are included in the data that they receive from incumbents.[33] Competitors, including LSSi, require nondiscriminatory access to all LIDB information in order to effectively and efficiently serve their customers; absent such nondiscriminatory access, competitors are impaired in their provision of call-related services. The Commission should clarify that competitors are entitled to full and complete nondiscriminatory access to LIDB, including information relating to the individual subscriber's local exchange provider.

Incumbents also currently discriminate against competitors, including LSSi, by providing incomplete access to their CNAM databases. When an incumbent's subscriber receives a call from an unavailable extension, the billing name is identified to the subscriber through the incumbent's caller identification service. In contrast, when a competitor's subscriber receives a call from an unavailable extension, the information that is provided to the competitor (and, thus, to the subscriber) via the incumbent's signaling network identifies the number as "unavailable". The incumbents' exclusive control over billing name information contained in the LIDB

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[32] *See, e.g. Local Competition Order* ¶312; *UNE Remand Order* ¶490.

[33] Absent provider data contained in the LIDB database, competitors must rely on the assurance of the ILEC that a specific competitive carrier is or is not contained in DA and call-related database information provided to competitors. The incumbent, meanwhile, is able to rely on the LIDB data itself. Such discriminatory treatment is prohibited by 47 U.S.C. §251(b)(3).

database, as well as their refusal to provide competitors with access to such information, constitutes discriminatory treatment under the 1996 Act and the Commission's rules.[34] As a result, competitors, including LSSi, are currently impaired in the provision of caller identification services to their customers. The Commission should clarify that its rules entitle competitors to full and complete access to the incumbents' CNAM databases, specifically including information pertaining to billing names used in the provision of caller identification services.

Efficient access to call-related databases promotes competition through decreased costs that may be passed on to consumers.[35] In the context of its examination of DA databases, the Commission examined the competitive impact of different methods of database access.[36] Recognizing the efficiency of such access for directory assistance databases, the Commission required incumbents to provide access in the "format specified by the requesting LECs" and to provide updates "in the same time as updates are made to the providing carrier's database."[37] The Commission should take this opportunity to ensure that incumbents also provide access to call-related databases on an efficient basis.[38]

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[34] 47 U.S.C. §251(b)(3); 47 C.F.R. §51.311(b).

[35] For LSSi's purposes, the most efficient method of accessing LIDB and CNAM is through an initial load of the database, combined with daily updates, and LSSi would support Commission action on this issue consistent with its DA database analysis in other proceedings.

[36] *Id.* ¶¶ 149-153 (explaining that "although some competing providers may only want per-query access to the providing LEC's directory assistance database, per-query access does not constitute equal access for a competing provider that wants to provide directory assistance from its own platform").

[37] *Id.* ¶ 153.

[38] This requirement would ensure that state PUCs likewise require efficient access. *See, e.g.*, Texas PUC Reply Comments at 17-18 (indicating that the Texas PUC does not to require SWBT to provide access to LIDB and CNAM on a batch basis).

The Commission's rationale with respect to DA now justifies revision of pre-1996 Act rules providing competitors with limited access to LIDB and CNAM databases.[39] Specifically, the Commission's rules should be revised to ensure that competitors have nondiscriminatory access to LIDB and CNAM at parity with incumbents. The rules must similarly ensure that access to LIDB and CNAM does not cause competitors, including LSSi, to "incur the additional time and expense" of data re-entry,[40] and ensure that competitors maintain "control over service quality" and avoid "degraded service."[41] Without efficient access to LIDB and CNAM, LSSi is currently "unable to offer certain enhanced services" including call waiting and caller identification for use with dial-up computer modems and custom-designed caller identification.[42] Thus, the Commission should revise its LIDB and CNAM rules to establish parity for all competitors' access to LIDB and CNAM.

The Commission should take this opportunity to reiterate the obligations of incumbents to competitors in the provision of access to call related databases, including LIDB and CNAM. Specifically, the Commission should provide incumbents with a clear and unequivocal statement that nondiscriminatory access to call-related databases under section 251(c)(3) must include the very same access enjoyed by the incumbent itself.

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[39] *See, e.g.* 47 C.F.R. §69.120.

[40] *SLI/DA Order and Notice* ¶ 152.

[41] *Id.* ¶ 152.

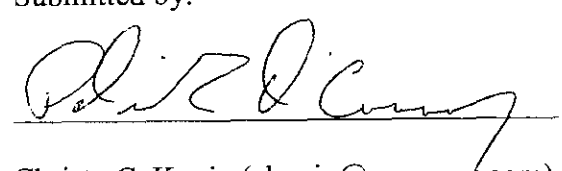
[42] *Id.* ¶ 152.

CONCLUSION

For the foregoing reasons, LSSi respectfully requests that the Commission:

- Recognize the absence of custom routing, a condition precedent to removal, and return OS/DA to the list of UNEs;
- Affirm that incumbents' obligations with regard to OS/DA and call-related databases are ongoing and require periodic resynchronization of those databases as provided to competitors;
- Reiterate the incumbents' nondiscriminatory obligations with regard to DA listings data where incumbents charge discriminatory and differential prices for DA listings data based upon the use that is made of such data by competitors;
- Retain call-related databases and related signaling on the list of unbundled network elements under section 251(d)(2); and
- Reiterate the incumbents' nondiscriminatory access obligations under section 251(c)(3) where competitors are currently prevented from accessing specific provider and billing name information used by incumbents.

Submitted by:



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